

## **EXHIBIT 4-1**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC., )  
Plaintiff, )  
vs. ) No. CV 10-03561 WHA  
GOOGLE, INC., )  
Defendant. )  
-----)

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Videotaped Federal Rule 30(b)(6) Deposition  
of PETER B. KESSLER, Ph.D., taken at 755 Page  
Mill Road, Palo Alto, California, commencing  
at 9:39 a.m., Thursday, August 4, 2011, before  
Leslie Rockwood, RPR, CSR No. 3462.

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1 position is that the JDK does practice the '205.

2 Q. BY MR. KAMBER: What is the basis for that  
3 belief?

4 MS. AGRAWAL: Same objection.

5 THE WITNESS: Communication with the 11:03:02  
6 attorneys.

7 Q. BY MR. KAMBER: Do you have any other basis  
8 for the belief that JDK 1.2 practices the asserted claims  
9 of the '205 patent?

10 MS. AGRAWAL: Same objections. 11:03:18

11 THE WITNESS: My understanding of the '205  
12 comes from my communications with the attorneys. And  
13 using that information, I can look in the source code.

14 Q. BY MR. KAMBER: I'm not sure I understand  
15 that answer, Dr. Kessler. 11:03:39

16 My question is: Do you have any other basis  
17 besides conversations with counsel to believe that JDK  
18 1.2 practices the asserted claims of the '205 patent?

19 MS. AGRAWAL: Same objections.

20 THE WITNESS: In addition to information that 11:03:55  
21 I've obtained from the attorneys, I have my reading of  
22 the code.

23 Q. BY MR. KAMBER: Which code?

24 MS. AGRAWAL: Same objections.

25 THE WITNESS: In the case of the '205, I 11:04:11

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1 would think it was the fast\_invokevfinal.

2 Q. BY MR. KAMBER: Are there any other -- is  
3 there any other code that you're aware of besides  
4 fast\_invokevfinal that Oracle claims practices the '205  
5 patent?

11:04:46

6 MS. AGRAWAL: Same objections.

7 THE WITNESS: There may well be other  
8 examples of my attorneys' interpretation of the '205 in  
9 the source code, but the one that I know about is in  
10 fast\_invokevfinal.

11:05:07

11 Q. BY MR. KAMBER: Okay. And you -- by "you"  
12 you're speaking on behalf of Oracle here today; correct?

13 A. Yes.

14 Q. So the only source code that Oracle is taking  
15 a position on with respect to whether it practices the  
16 '205 patent is the fast\_invokevfinal method; correct?

11:05:23

17 MS. AGRAWAL: Same objection.

18 MR. KAMBER: Excuse me. Fast\_invokevfinal.

19 THE WITNESS: V final.

20 MS. AGRAWAL: Same objections.

11:05:37

21 THE WITNESS: That's certainly one of the --  
22 so I don't want to limit myself to fast\_invokevfinal if  
23 there are other instances.

24 Q. BY MR. KAMBER: Okay. But I'm trying to  
25 understand. We're -- I'm here on behalf of my client to

11:05:55

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1 Q. BY MR. KAMBER: Is it fair to say that Oracle  
2 can't identify an earlier date of conception for the  
3 invention allegedly set forth in the asserted claims of  
4 the '104 patent?

5 MS. AGRAWAL: Objection. Form. 16:45:55

6 THE WITNESS: I do not know of an earlier  
7 date of conception for the '104.

8 Q. BY MR. KAMBER: Same questions with respect  
9 to reduction to practice. Is Oracle able to identify any  
10 date prior to the date of the patent, the filing of the 16:46:16  
11 patent, I should say, at which the inventions allegedly  
12 set forth in the asserted claims of the '104 patent were  
13 reduced to practice?

14 MS. AGRAWAL: Objection. Form.

15 THE WITNESS: I do not know of any such 16:46:32  
16 information.

17 Q. BY MR. KAMBER: Which products implement the  
18 alleged invention of the '104 patent?

19 MS. AGRAWAL: Objection. Form.

20 THE WITNESS: There's a list of them on 16:47:05  
21 page 9 of Exhibit 329.

22 Q. BY MR. KAMBER: Is the list on page 9 of  
23 Exhibit 329 a complete list of the instrumentalities of  
24 Oracle that practice the asserted claims of the '104  
25 reissue patent? 16:47:30

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1 A. To my knowledge, it is.

2 Q. What is the basis of that knowledge?

3 MS. AGRAWAL: Caution the witness not to  
4 reveal attorney-client communications, but to the extent  
5 that you don't, go ahead and answer. 16:47:46

6 THE WITNESS: For some of them, it's my  
7 examination of the source code; for others, it's  
8 conversations with other engineers.

9 Q. BY MR. KAMBER: Okay. With respect to -- let  
10 me ask: For which products did you do an evaluation of 16:48:06  
11 the source code for whether it practices the asserted  
12 claims of the '104 reissue patent?

13 MS. AGRAWAL: Objection. Form.

14 THE WITNESS: So the JDK is built on top of  
15 the JRE. I examined the source code for the JRE. I 16:48:37  
16 examined the source code for HotSpot. And for the  
17 others, I relied upon the opinions of other engineers who  
18 were more familiar with those source code bases.

19 Q. BY MR. KAMBER: Which engineers did you speak  
20 to in order to determine whether the instrumentalities 16:48:55  
21 listed on page 9 of Exhibit 329 practiced the asserted  
22 claims of the '104 patent?

23 MS. AGRAWAL: Objection. Form.

24 THE WITNESS: There are several different  
25 products listed here that have different engineers. I 16:49:21

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1 STATE OF CALIFORNIA ) ss:

2 COUNTY OF MARIN )

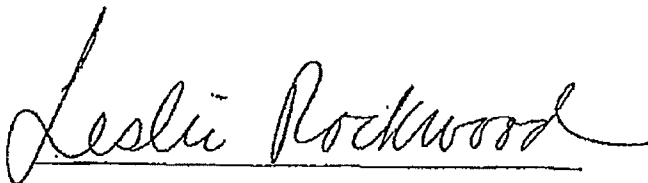
3  
4 I, LESLIE ROCKWOOD, CSR No. 3462, do hereby  
5 certify:

6 That the foregoing deposition testimony was  
7 taken before me at the time and place therein set forth  
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all  
10 objections made by counsel at the time of the examination  
11 were recorded stenographically by me, and were thereafter  
12 transcribed under my direction and supervision, and that  
13 the foregoing pages contain a full, true and accurate  
14 record of all proceedings and testimony to the best of my  
15 skill and ability.

16 I further certify that I am neither counsel  
17 for any party to said action, nor am I related to any  
18 party to said action, nor am I in any way interested in  
19 the outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name  
21 this 5th day of August, 2011.

22  
23   
24

25 LESLIE ROCKWOOD, CSR. NO. 3462